

# **EXHIBIT B**

Michael Grecco

July 01, 2021

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

MICHAEL GRECCO and MICHAEL  
GRECCO PRODUCTIONS, INC.,

Plaintiffs,

vs.

CASE NO. 21-CV-00423 (JSR)

AGE FOTOSTOCK AMERICA, INC.,

Defendant.

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DEPOSITION OF MICHAEL GRECCO

APPEARING REMOTELY FROM

LOS ANGELES COUNTY, CALIFORNIA

July 1, 2021

8:33 a.m.

REPORTED STENOGRAPHICALLY BY:

Deborah L. Heskett

CSR No. 11797

APPEARING REMOTELY FROM LOS ANGELES COUNTY, CALIFORNIA

July 01, 2021

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21  
22  
23  
24  
25

1 Q Let's move on.

2 Have you read the complaint in this case?

3 A Yes.

4 Q Were you involved in the preparation of the  
5 complaint, without getting into any privileged  
6 information?

7 A I didn't write it.

8 Q But are you familiar with the allegations?

9 A Yes.

10 Q Okay. Let's take a look at the complaint.  
11 Can you see the complaint on screen?

12 A Yep.

13 MS. GATES: All right. We'll mark this as  
14 Defendant's Exhibit 1.

15 (Exhibit 1 identified)

16 BY MS. GATES:

17 Q So are you familiar with this document?

18 A I am.

19 Q Did you review it in full before it was filed?

20 A Yes, I believe so.

21 Q And, to the best of your knowledge, are all the  
22 statements contained in this complaint correct?

23 A Yes.

24 Q Take a look at Exhibit 1.

25 Is this one of the photographs at issue in this

1 case?

2 A I believe so, yes.

3 Q Do you recall when you took this photo?

4 A 1994 or '93.

5 Q How did you come to take this photo?

6 A I was commissioned by the broadcaster.

7 Q Who's the broadcaster?

8 A Fox.

9 Q So Fox hired you to take photos of these two  
10 people?

11 A Correct.

12 Q Do you recall what the arrangement was when Fox  
13 hired you?

14 A What does that mean?

15 Q Was there an agreement between you and Fox?

16 A Yes.

17 Q Was this agreement in writing?

18 A Yes.

19 Q Do you recall what the agreement looked like?

20 A Yes.

21 Q Can you describe it to me?

22 A It was an invoice with a license.

23 Q Did you sign anything?

24 A I did not, no.

25 Q Did Fox sign anything?

1 A No.

2 Q When you say "invoice," was it a purchase  
3 order?

4 A No. I used the words "invoice."

5 Q Was there any other documentation aside from  
6 the invoice?

7 A What other documentation would you be referring  
8 to? For the job there was only an invoice.

9 Q Okay. So there's no other written  
10 communications or anything referencing the agreement?

11 A No e-mail back then. People used the phone.

12 Q So when Fox asked you to take these photos, did  
13 they call you up on the phone?

14 A Yes.

15 Q Did they give you the assignment before the  
16 invoice was generated?

17 A Yes.

18 Q And that was orally that they relayed the  
19 assignment?

20 A Correct.

21 Q Did you discuss any terms or circumstances  
22 regarding the assignment over the phone?

23 A I don't recall.

24 Q Did you personally discuss the assignment with  
25 Fox?

1 A Yes.

2 Q Did you have an agent at the time?

3 A Yes.

4 Q Was your agent involved in the assignment?

5 A Yes.

6 Q How was your agent involved?

7 A She helped do the estimate and did all the  
8 paperwork.

9 Q And when you say "paperwork," are you referring  
10 to the invoice?

11 A The estimate and the invoice.

12 Q And who was your agent at the time?

13 A Maggie Hamilton.

14 Q Do you know how the estimate was created?

15 A I think it was typed.

16 Q Do you know how the numbers of the estimate  
17 were generated?

18 A They were estimated.

19 Q Was there any basis or frame of reference for  
20 the specific numbers?

21 A Rates at the time for all our vendors and for  
22 licensing and all of that.

23 Q So for this assignment, did you only have one  
24 phone call with Fox?

25 A I'm sure there was multiple phone calls with

1 Fox.

2 Q Do you recall what you discussed during these  
3 calls?

4 A The assignment.

5 Q Is there --

6 A The creative aspects of the assignment. My  
7 agent probably handled the business aspects of it.

8 Q Did you ask her to handle the business aspects  
9 of the assignment?

10 A That was her job.

11 Q So did the agent prepare the invoice?

12 A I invoiced the agent, and then the agent  
13 prepares the invoice based on my invoice.

14 Q Did she prepare a separate invoice or just use  
15 your invoice?

16 A She prepared a separate invoice.

17 Q Did you ever review this invoice?

18 A Not before it went out.

19 Q So she sent the invoice directly to Fox?

20 A Yep. And she would have been the one to  
21 negotiate the terms and the details, so --

22 Q Were you aware of the specifics of her  
23 negotiation at the time?

24 A In general terms, she would have approved it by  
25 me.



1 used on the back of her terms and conditions.

2 Q Did you review the document that Maggie sent to  
3 Fox?

4 A I saw -- yes, at one point I did.

5 Q So are you certain that the document that Fox  
6 received included the terms and conditions?

7 A Yes.

8 Q Do you know whether Fox accepted or signed off  
9 on the terms and conditions?

10 A They paid based on the invoice. That's  
11 acceptance to me.

12 Q Were these restrictions regarding third-party  
13 use relayed in any other way to Fox?

14 A Through smoke signals? I don't understand what  
15 you're asking me.

16 Q Was there any other writing? Did you relay it  
17 to them on a phone call?

18 A I didn't handle the business negotiations;  
19 Maggie Hamilton did.

20 Q Do you -- do you recall --

21 A But let me back up.

22 Those same terms and conditions went to them  
23 with the estimate, and they -- they assigned the job  
24 based on the estimate.

25 Q Okay. So to backtrack a bit, starting off

1 there was a phone call with Fox; correct?

2 A That's correct.

3 Q And Fox asked you to take these pictures; is  
4 that correct?

5 A That's correct, yeah.

6 Q And then you prepared an estimate for the photo  
7 shoot; is that correct?

8 A That is correct.

9 Q And then that estimate was sent to Fox by you  
10 or by your agent at that time?

11 A That's correct.

12 Q Did you send the estimate or did your agent  
13 send the estimate?

14 A She probably sent it.

15 Q Are you certain or are you speculating?

16 A I'm fairly certain. I mean, that's the way  
17 that we did it at the time.

18 Q And did you review this estimate before it went  
19 out?

20 A I'm sure I did. They got my approval, so --

21 Q Are you certain that the estimate contained the  
22 terms and conditions that you referenced?

23 A Yes.

24 Q So Fox received this estimate. And then what  
25 did they do?

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1           A       They probably signed it and sent it back to my  
2 agent.

3           Q       Do you have any documentation of this?

4           A       I do not.

5           Q       So what's your basis of knowledge for your  
6 understanding that Fox sent back the estimate with the  
7 signature to your agent?

8           A       Because no one does a 25,000 or \$30,000 job  
9 without getting written approval from the client. We  
10 just didn't do it that way.

11          Q       So it was an industry practice at the time for  
12 clients to sign estimates?

13          A       I would say yes, but to clarify it was our  
14 practice.

15          Q       Would you have gone forward if the estimate was  
16 not signed?

17          A       No.

18          Q       But you can't say for certain whether you --  
19 there was a signed document?

20          A       Ms. Hamilton has closed her office, has  
21 destroyed all of her paperwork, and is a social worker.  
22 Like -- no, I can't.

23                 I can tell you with 99 percent, 98 percent  
24 certainty that I would not have done a job and hired an  
25 \$8,000 set builder without a signature from the client.

1 Do I have that paperwork, no, I don't.

2 Q And that would be a signature on the terms and  
3 conditions as well; is that correct?

4 A Yes. I mean, back in the day everything was  
5 sent by fax. So they would have a gotten several-page  
6 estimate with the terms and conditions and would have  
7 signed the front page of the estimate. And in the front  
8 page, it says Terms and conditions on the reverse apply,  
9 which would have come to them as a second or third page.

10 Q So Fox would have only signed the first page of  
11 the estimate?

12 A That's correct.

13 Q So estimates were sent via fax at the time?

14 A Yes.

15 Q And how would you confirm that multiple pages  
16 of a fax were received?

17 A I believe fax machines would tell you all five  
18 pages sent okay.

19 Q Do you recall whether checking at the time that  
20 the fax was sent and received?

21 A I didn't send it.

22 Q Your agent sent it?

23 A That is correct.

24 Q So would your agent have received the fax back  
25 from Fox?

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1 A Yes.

2 Q But she doesn't have those documents anymore?

3 A She has been out of business for 15 years, 10  
4 years at least.

5 Q So after the estimate, you prepared an invoice?

6 A Yes.

7 Q Was the invoice before the shoot or after the  
8 shoot?

9 A After the shoot.

10 Q And how did you provide the invoice to Fox?

11 A I don't know if it was just faxed or it was --  
12 or it was faxed and mailed also. It was -- a copy was  
13 probably mailed with backup, with copies of the  
14 receipts.

15 Q Was that your typical practice at the time?

16 A Yes.

17 Q Would Fox sign the invoice?

18 A No. They usually just paid it.

19 Q And the terms and conditions would be on the  
20 reverse of the invoice as well?

21 A Correct.

22 Q Did you send the invoice via fax and mail or  
23 did your agent?

24 A Asked and answered, Counsel.

25 Q Do you know how Fox ended up using the images

1 from the shoot?

2 A For advertising and publicity.

3 Q Do you recall specific instances of how they  
4 used your images?

5 A Billboards, magazine ads, distribution to  
6 magazines.

7 Q Do you know whether Fox distributed the images  
8 to anyone else?

9 A To my knowledge they did not. I mean, they  
10 distribute it to the magazine writing an article or the  
11 magazine or the billboard company that would need to put  
12 up the billboard.

13 Q Do you know how the images would have been  
14 distributed at the time?

15 A Fox would have made copies of them and given  
16 the copies out.

17 Q When you say "given the copies out," what do  
18 you mean?

19 A They would have made duplicate slides or  
20 prints, and they would have mailed those slides or  
21 prints to the end user.

22 Q When you say "slides," what are you referring  
23 to?

24 A A transparency.

25 Q So it's possible to make copies of a

1 transparency?

2 A Yes.

3 Q Do you know whether Fox would have made copies  
4 of the transparencies or prints?

5 A Both.

6 Q Do you know whether anything would have  
7 accompanied the transparencies or the prints?

8 A Don't know how. I mean, I don't think it's the  
9 same in each case.

10 Q Did you ever see a package of how it was  
11 distributed by Fox?

12 A Yes.

13 Q Can you describe that package?

14 A It was a black folder, had the name of the show  
15 on it, had a press release on it, had some  
16 black-and-white prints and some color duplicates,  
17 duplicate slides.

18 Q Was there any information on the prints or on  
19 the press release regarding the images?

20 A Not on the press release. The prints had a  
21 credit on them.

22 Q What credit did the prints contain?

23 A I believe it said Copyright: Michael  
24 Grecco/20th Century Fox.

25 I forget the corporate part of the credit.

1 and that they had publicity and advertising rights only.

2 Q Did you ever obtain any releases such as model  
3 releases for the shoot?

4 A No.

5 Q Would that have been necessary for your uses of  
6 the photos?

7 A No.

8 Q So how could you use the photos after the  
9 shoot? What was your understanding?

10 A They could only be used for editorial purposes.  
11 I could only use them for editorial purposes.

12 Q So for editorial purposes you wouldn't need the  
13 releases; is that correct?

14 A That is correct.

15 Q So can you walk me through the slide here and  
16 explain what the writing means?

17 A Sure.

18 Q Let's start at the top where it says The  
19 X-Files.

20 A Right. Do you need me to explain that to you?

21 Q Is that the name of the show for the shoot?

22 A Yes.

23 Q And when it says Left to right David Duchovny  
24 and Gillian Anderson, are those the persons depicted in  
25 the shoot?



1           A     That's correct.

2           Q     And at the bottom it says PC: Michael  
3 Grecco/Fox?

4           A     That's correct.

5           Q     What does "PC" mean?

6           A     I believe it would mean photo credit.

7           Q     Do you see any copyright notice on this slide.

8           A     Nope.

9           Q     Would it have been on the original slide?

10          A     No. The original slides didn't have paper  
11 frames around them to print on.

12          Q     Only the dupes had the paper frames?

13          A     That's correct.

14          Q     So this information would have only been  
15 printed on the duplicates?

16          A     No.

17          Q     What do you mean?

18          A     Well, you made a statement that wasn't true,  
19 and I said no.

20          Q     Can you explain why my statement is not true?

21          A     Because they didn't only distribute  
22 35-millimeter slides; they also made prints.

23          Q     So would this information have been printed on  
24 the prints as well?

25          A     Yes. There's more room on the prints, and I

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1           Many people have -- it's been used in the wrong  
2 way to a certain extent before.

3           Q     So for this second photo we see here on screen,  
4 was this taken during the same shoot as the first photo?

5           A     Yes, the 1993 photo shoot.

6           Q     So for this photo, the testimony you gave  
7 earlier regarding the call and the estimate and the  
8 invoice, that would all be the same for this photo as  
9 well; is that correct?

10          A     That is correct.

11          Q     Scrolling down to the third photo attached to  
12 the complaint.

13                Is this the same photo that you would have  
14 taken during the shoot that we just discussed for the  
15 previous two photos?

16          A     Yep.

17          Q     So your testimony regarding the call with Fox  
18 and the estimate and the invoice would all be the same  
19 for this photo as well?

20          A     Yep.

21          Q     Was this photo taken during a different shoot?

22          A     Yes.

23          Q     So what is this photo?

24          A     It was for the television show Xena.

25          Q     Do you recall when you took this photo?

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1 A 1996.

2 Q Do you recall how you came to take this photo?

3 A I was assigned by the network at the time.

4 Q And what was the network at the time?

5 A MCA Television.

6 Q So did MCA reach out to you to assign the photo  
7 shoot?

8 A They either reached out to me or my agent.

9 Q Do you recall how they reached out to you?

10 A I -- it was pretty much always by telephone  
11 because there was no e-mail then.

12 Q Do you recall whether you spoke with anyone at  
13 MCA?

14 A Yeah.

15 Q Was it during one telephone call or multiple  
16 calls?

17 A This was a huge production shoot with lots of  
18 travel. There were -- I know there were multiple phone  
19 calls.

20 Q Generally what did you discuss during these  
21 phone calls?

22 A The logistics, the travel logistics, the  
23 production logistics, who was going to supply hair and  
24 makeup, who was going to supply wardrobe, what we would  
25 need, how many shots they needed. All the details of

1 the shoot. What was going to be accomplished, how  
2 much -- how much time we had with talent, you know, what  
3 the schedule was like, when I was coming in, you know,  
4 when I would be available to do a tech scout on the set.  
5 All of it, every detail was discussed.

6 Q By "every detail," do you mean the terms of the  
7 project?

8 A That would have been discussed by -- with  
9 Maggie Hamilton.

10 Q So Maggie was your agent at the time?

11 A That's correct.

12 Q So Ms. Hamilton negotiated the terms for this  
13 project as well?

14 A That's correct.

15 Q Do you know how she handled that negotiation,  
16 if it was over phone call or in writing?

17 A I'm sure it was over a phone call.

18 Q Do you know if the agreement was ever reduced  
19 to writing?

20 A It was an estimate that was approved and  
21 signed, same as the other -- same as the other  
22 conversation. It was an estimate that was approved and  
23 signed.

24 Q So just to walk through the steps again, did  
25 you prepare the estimate?

1           A       I was privy to the numbers and what the costs  
2       were.  Maggie Hamilton prepared the estimate, though.

3           Q       And did Ms. Hamilton provide the estimate to  
4       MCA?

5           A       Yes.

6           Q       Do you know if she provided the estimate via  
7       fax?

8           A       Yes.  I mean, I can only assume that.  We are  
9       in the middle of producing and negotiating a job on a  
10      schedule.  I can't imagine that she mailed it.

11          Q       And do you know whether that estimate was  
12      received by MCA?

13          A       Yes.

14          Q       How do you know that?

15          A       Because it was -- again, we wouldn't go out and  
16      do a job like this without a signed estimate when  
17      there's airplane tickets and travel costs and -- so to  
18      my recollection at the time it was received and signed.

19          Q       Do you recall seeing the signed estimate?

20          A       No.  I just know that I was told it was signed  
21      and the job -- any job wasn't a go until there was a  
22      signed estimate, because no one is going to put out  
23      money and book airline tickets and assistants and crew  
24      without having a signed agreement.

25          Q       So your agent relayed to you that the estimate

1 A Correct.

2 Q Do you recall when that license was entered  
3 into?

4 A Probably within a year, a year or so after the  
5 photo shoot.

6 Q Would that have been a separate writing?

7 A Don't remember how it was handled. I remember  
8 being called by my client and being asked for permission  
9 for it, so --

10 Q So regarding the estimate, would that also be  
11 in Ms. Hamilton's possession?

12 A Yeah. I mean, I've been told -- again, I've  
13 been told that she has no documents from when she was an  
14 agent.

15 Q Did she tell you that or did someone else tell  
16 you that?

17 A She has told me that.

18 Q So for this project what original documentation  
19 do you have?

20 A Whatever we have we've given you. I believe we  
21 have our copy of the invoice, and we don't have the copy  
22 of the invoice that actually went to the client.

23 Q So when you say your copy, are you referring to  
24 the invoice that you prepared and sent to Ms. Hamilton?

25 A That's correct.

1 Q And then she would then prepare a separate  
2 invoice to send to the client?

3 A That's correct.

4 Q And only she retained the copy of this invoice;  
5 is that correct?

6 A I might have gotten a copy of it when I got my  
7 statement, but maybe not. I don't remember if she  
8 included copies of the invoices or it was just a line  
9 item statement of your assignments and syndication for  
10 that month.

11 Q Do you recall if you obtained any releases such  
12 as model releases for this shoot?

13 A There are no releases for this shoot.

14 Q So you said any documentation you had regarding  
15 this shoot that you've already produced to us; is that  
16 correct?

17 A That is correct.

18 Q Did you search for any additional  
19 documentation, things that Ms. Hamilton may have  
20 provided to you?

21 A Yes.

22 Q And you didn't find any such documentation?

23 A Asked and answered, Counselor. My answer is  
24 not going to change because you ask it a different way.

25 Q Do you recall if you had slides for this photo

1 shoot?

2 A Yes.

3 Q Do you currently have the original slides?

4 A Some.

5 Q Did you provide the original -- any of the  
6 original slides to MCA?

7 A Yes.

8 Q Do you know whether MCA would have made any  
9 duplicates of the slides like Fox did?

10 A Yes.

11 Q Do you know how MCA distributed any of the  
12 images?

13 A I don't understand what you mean by  
14 "distribute."

15 Q Do you know how MCA used any of the images?

16 A For advertising and publicity.

17 Q Do you know now MCA would have given out the  
18 images for advertising and publicity?

19 A More than likely as a duplicate so that they  
20 had the original.

21 Q Have you ever seen a package of how MCA gave  
22 out the duplicate?

23 A I don't know on this -- on Xena, if we have a  
24 copy of a press kit or slides. I would have to check  
25 the file. But, again, anything we have we've given. So



1 these files. Pursuant to this case, Ms. Parker gathered  
2 the documents. And I'm not aware of it, but, as I said  
3 before, I have a note to check the Xena file again to  
4 see if there's press images or anything with writing on  
5 them.

6 MS. GATES: Okay. Let's take a look at another  
7 document that we'll mark as Defendant's Exhibit 3.

8 (Exhibit 3 identified)

9 BY MS. GATES:

10 Q This bears Bates stamp PL 125 and 126.

11 Do you recognize this document?

12 A Yes.

13 Q What is it?

14 A It's my invoice to Keswick Hamilton-Sygma for  
15 that X-Files shoot.

16 Q And who is Erin O'Donnell?

17 A As it says on the invoice, an account  
18 executive.

19 Q And what is Keswick Hamilton-Sygma?

20 A That was Maggie Hamilton's agency.

21 Q So at the time this was the agency who was  
22 representing you?

23 A That's correct.

24 Q Is there any reason why this is directed to  
25 Ms. O'Donnell and not Ms. Hamilton?

1           A       Because she handled the production of the job.  
2       She helped make the arrangements. She helped --  
3       normally -- or often in an agency there's an in-house  
4       producer.

5           Q       So this is the invoice that you provided to  
6       Ms. O'Donnell who would then prepare a separate invoice  
7       for the client; is that correct?

8           A       That is correct.

9           Q       So looking at the use here on screen, it says  
10      FBC. Do you know what that stands for?

11          A       That was the production company.

12          Q       Is that an acronym that you could spell out for  
13      us?

14          A       Yes.

15          Q       What is FBC?

16          A       Fox Broadcasting Company.

17          Q       And it also states: All rights for publicity  
18      and advertising only.

19          A       Yes.

20          Q       What do you understand that to mean?

21          A       That their rights were limited to advertising  
22      and publicity only.

23          Q       This also states that MGPI retains the  
24      copyright to all photographs and the right to use any  
25      photographs for personal portfolio promotional use.

1           What does "personal portfolio promotional use"  
2 mean to you?

3           A     Just what it says, and I -- okay.

4           Q     Can you give me an example of what a personal  
5 portfolio and -- or promotional use would be?

6           A     Personal portfolio and portfolio use.

7           Q     What's a personal portfolio?

8           A     My -- the distribution and copying of their  
9 work in my portfolios. And my promotional use to  
10 distribute it, you know, all of it.

11          Q     Distribute it to who?

12          A     Distribute it as promotional pieces, to  
13 distribute it as -- you know, in this case it was also  
14 syndication. This isn't what went to the client,  
15 though. This isn't what Maggie Hamilton negotiated.

16                So this is what went to Maggie Hamilton, just  
17 want to be clear here. This isn't the deal that Maggie  
18 Hamilton made with the client. She has different terms  
19 and conditions and usage in her invoice because she was  
20 privy to the specifics negotiated.

21          Q     So are you aware of how the terms may have  
22 differed for what she sent to the client?

23          A     Yep.

24          Q     How did the terms differ from this invoice?

25          A     I think her terms were just very, very simple.

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1 document that we'll mark as Defendant's Exhibit 7.

2 (Exhibit 7 identified)

3 BY MS. GATES:

4 Q This bears Bates number PL 121 through 123.

5 Do you recognize this document?

6 A Yes.

7 Q What is it?

8 A It's the invoice sent to Maggie Hamilton for  
9 the Xena and Hercules shoot.

10 Q Is this an invoice that you prepared?

11 A Yes.

12 Q Ms. Hamilton was acting as your agent at the  
13 time?

14 A That's correct.

15 Q Do you know who Erik Thompson is?

16 A Yes.

17 Q Who is he?

18 A He was my client.

19 Q Do you know what his role was at MCA?

20 A He was my client. He was either director of  
21 photography or in publicity or promotions or some  
22 department that would have, you know, some sort of  
23 control over, you know, say in doing their photo shoots.

24 Q And in the Use line, it says Unlimited usage  
25 rights. Do you know or understand what that means?

1 A Yes.

2 Q What does unlimited usage rights mean to you?

3 A Means that the client gets to use it in the  
4 manner that the client needs to use it. But, again,  
5 this isn't what was sent to the client. This is what I  
6 sent to Maggie and she sent an invoice with whatever she  
7 had negotiated with them.

8 Q Do you know if her invoice included unlimited  
9 usage rights?

10 A I think her invoice probably said something as  
11 simple as advertising and publicity use.

12 Q Do you recall if her invoice included any  
13 additional language?

14 A It wasn't her style. It's like all I know is  
15 that when they wanted to use images outside of publicity  
16 and advertising use, they -- Erik always came back to me  
17 and got permission.

18 Q Do you recall if Mr. Thompson asked for any  
19 additional license agreements regarding these images?

20 A Yes.

21 Q Do you recall what the uses were for?

22 A Yes.

23 Q Can you describe the uses?

24 A Yes. He -- as I said earlier in my testimony,  
25 he asked for use of a Xena picture at the Universal

1 BY MS. GATES:

2 Q This document bears Bates number PL 40.

3 Do you recognize this?

4 A Yes. Can you scroll down, please?

5 Yes.

6 Q What is it?

7 A It's a black-and-white publicity picture.

8 Q What is a publicity picture?

9 A It's a picture sent out for publicity.

10 Q Who would send out a publicity picture?

11 A Whoever is trying to get publicity.

12 Q Do you know if anyone sent out this particular  
13 publicity picture?

14 A You're showing it to me with -- as a publicity  
15 picture that Fox had sent out, so, yes.

16 Q So you're aware that Fox had sent out this  
17 publicity picture?

18 A Yes.

19 Q Do you know who Fox sent it out to?

20 A Magazines and newspapers doing a story on the  
21 show.

22 Q Are you aware of the extent or the scope of how  
23 Fox sent this publicity picture out?

24 A No.

25 Q Do you know --

1           A     Let me back up.

2                   To a certain degree, yes. I mean, how many  
3 they sent out, I don't know. But to whom they went out  
4 to, magazines and newspapers.

5           Q     Do you know if Fox sent this publicity picture  
6 out to any press agents?

7           A     What's a "press agent," Counselor?

8           Q     Someone who engages in distributing to the  
9 press.

10          A     Not to my knowledge. Fox has its own  
11 syndication department and has approval of every story  
12 that they do on The X-Files. Otherwise, you wouldn't  
13 get the pictures. If you were writing that, you know,  
14 Dana Scully was, you know, was a serial killer, you  
15 would not have permission to get that picture. And Fox  
16 controls the publicity of their show. It's their  
17 property.

18                   So to my -- what was told to me in my  
19 knowledge, they don't give it to press agents.

20          Q     When you say "what was told to me," what are  
21 you referring to?

22          A     What was told to me.

23          Q     Who did you speak with?

24          A     Kevin Fitzgerald, the director of photography.

25          Q     He is a director of photography for Fox or for

1 fine.

2 Q Should I zoom in more or?

3 A Yeah, go ahead.

4 Okay.

5 Q So this publicity picture lists the copyright  
6 as 1995 20th Century Fox; is that correct?

7 A Yes.

8 Q Do you know why it lists the copyright as such?

9 A They didn't ask me for approval of their text  
10 before it went out. I mean, is it legally correct?  
11 I'll leave that to the attorney. But I'm -- I'm  
12 assuming that that notice is there to protect the rights  
13 of their show and the rights of these images.

14 Q Do you recall the first time you've saw a  
15 publicity picture, either this one or another one for  
16 The X-Files?

17 A Yeah. It was probably back in the '90s.  
18 Probably got a copy of them.

19 Q Did you raise this issue with Fox regarding the  
20 copyright on this publicity picture?

21 A No.

22 Q Why not?

23 A Well, I mean, it's their show. I'm not going  
24 to get into a legal argument with them whether they are  
25 asserting the copyrights of their show or the individual



1 Q What did you understand her statement "Age USA  
2 never licensed any of the images you listed in your  
3 claim to end users in the US" to mean?

4 A I take it for what the -- what the words mean.  
5 I don't understand. That doesn't mean I believe them  
6 either. I don't take things on face value, Counselor.  
7 I just don't.

8 Q And regarding Ms. Muniz's e-mail from  
9 September 21st, 2020, in which she says that she wishes  
10 to reiterate that the website www.agefotostock.com is  
11 not owned, operated or maintained by Age USA, what did  
12 you understand that statement to mean?

13 A I'm going to say this one more time. I am not  
14 a lawyer and I'm not one to analyze jurisdiction. What  
15 I took that statement to mean is someone who did not  
16 want to negotiate and settle the matter.

17 And, again, I had no evidence. I don't know  
18 the nuances of jurisdiction. I had no evidence. And,  
19 quite frankly, I don't believe your client about  
20 anything.

21 So it didn't matter. What I took that  
22 statement to mean is they don't want to settle this  
23 case. That's what I took this statement to mean.  
24 That's all I took it to mean. They don't want to settle  
25 the case.

1           Q     And did you take the following statement in  
2     this e-mail to mean the same thing when Ms. Muniz said,  
3     None of these two separate and independent legal  
4     entities have licensed the images you listed in your  
5     claim?

6           A     I don't -- every infringer lies, cheats and  
7     steals. That's why they are an infringer; right?

8                     I don't believe that statement at face value.  
9     Maybe it's the truth; maybe it's not. And I still have  
10    the right to display of my work.

11          Q     What was your initial demand in this  
12    correspondence?

13          A     I would have to look at it. I don't recall. I  
14    don't know if we even got to that. She didn't ask me  
15    for a number.

16          Q     Would you have given out a number, or would you  
17    typically wait for the other party to provide a number?

18          A     It all depends on the negotiation. If they  
19    would have asked for a demand amount, I would have given  
20    them one. I usually try not to be the first one to put  
21    out a demand amount, though.

22          Q     Did you have a demand amount in mind for this  
23    specific use?

24          A     At this point or back then?

25          Q     In September 2020.

Michael Grecco

July 01, 2021

## 1 DECLARATION UNDER PENALTY OF PERJURY

2  
3 I, MICHAEL GRECCO, do hereby certify under  
4 penalty of perjury that I have read the foregoing  
5 transcript of my deposition taken on July 1, 2021; that  
6 I have made such corrections as appear noted on the  
7 Deposition Errata Page, attached hereto, signed by me;  
8 that my testimony as contained herein, as corrected, is  
9 true and correct.

10  
11 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021, at  
12 \_\_\_\_\_, California.

13  
14 \_\_\_\_\_  
15 MICHAEL GRECCO  
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July 01, 2021

1 STATE OF CALIFORNIA )

2 ) ss

3 COUNTY OF LOS ANGELES )

4  
5 I, Deborah L. Heskett, a Certified  
6 Shorthand Reporter duly licensed and qualified in and  
7 for the State of California, do hereby certify that  
8 there came before me remotely on the 1st day of July  
9 2021, the following named person, to-wit: Michael  
10 Grecco, who was duly sworn to testify the truth, the  
11 whole truth, and nothing but the truth of knowledge  
12 touching and concerning the matters in controversy in  
13 this cause; and that she/he was thereupon examined under  
14 oath and her/his examination reduced to typewriting  
15 under my supervision; that the deposition is a true  
16 record of the testimony given by the witness.

17 I further certify that pursuant to FRCP  
18 Rule 30(e)(1) that the signature of the deponent:

19 \_\_\_ was requested by the deponent or a party  
20 before the completion of the deposition;

21 \_\_\_x\_ was not requested by the deponent or a  
22 party before the completion of the deposition.

23 I further certify that I am neither  
24 attorney or counsel for, nor related to or employed by  
25 any of the parties to the action in which this

Michael Grecco

July 01, 2021

1 deposition is taken, and further that I am not a  
2 relative or employee of any attorney or counsel employed  
3 by the parties hereto, or financially interested in the  
4 action.

5 CERTIFIED TO BY ME on this 11th day of July  
6 2021.

7 

8 \_\_\_\_\_  
9 DEBORAH L. HESKETT  
CSR No. 11797